APPENDIX

1. Section 9A of the Hatch Act (53 Stat. 1148, formerly 5 U.S.C. 118j), repealed but essentially reenacted as Section 118p of Title 5 by Act of August 9, 1955, Sections 1 and 4 (2), 69 Stat. 624–625), provided as follows in pertinent part:

> (1) It shall be unlawful for any person employed in any capacity by any agency of the Federal Government whose compensation, or any part thereof, is paid from funds authorized or appropriated by any Act of Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States.
>
> (2) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person.

2. Public Law 733, 81st Congress (Act of August 26, 1950, 64 Stat. 476, 5 U.S.C. 22–1, *et seq.*), provides as follows in pertinent part:

> AN ACT To protect the national security of the United States by permitting the summary suspension of employment of civilian officers and employees of various departments and agencies of the Government, and for other purposes.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), as amended (5 U.S.C. 652), or the provisions of any other law, the Secretary of State; Secretary of Commerce; Attorney General; the Secretary of Defense; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Secretary of the Treasury; Atomic Energy Commission; the Chairman, National Security Resources Board; or the Director, National Advisory Committee for Aeronautics, may, in his absolute discretion and when

deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Department of State (including the Foreign Service of the United States), Department of Commerce, Department of Justice, Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, Coast Guard, Atomic Energy Commission, National Security Resources Board, or National Advisory Committee for Aeronautics, respectively, or of their several field services * * *.

3. Part III, Paragraph 3 of Executive Order 9835 of March 21, 1947 (12 F.R. 1938) provides as follows:

> 3. The Loyalty Review Board shall currently be furnished by the Department of Justice the name of each foreign or domestic organization, association, movement, group or combination of persons which the Attorney General, after appropriate investigation and determination, designates as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.
>
> a. The Loyalty Review Board shall disseminate such information to all departments and agencies.

4. Executive Order 10450, effective May 27, 1953 (18 F.R. 2489), provides as follows in pertinent part:

> WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and
>
> WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be

employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, *et seq.*); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 188j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22–1, *et seq.*), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

* * * * *

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

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SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security in accordance with the said act of August 26, 1950.

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

* * * * *

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of Government of the United States by unconstitutional means.

* * * * *

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked. For the purposes described in section 11 hereof the Loyalty Review Board and the regional loyalty boards of the Civil Service Commission shall continue to exist and function for a period of one hundred and twenty days from the effective date of this order, and the Department of Justice shall continue to furnish the information described in paragraph 3 of Part III of the said Executive Order No. 9835, but directly to the head of each department and agency.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

* * * * *

SEC. 15. This order shall become effective thirty days after the date hereof.

5. The Attorney General's Rules of Procedure for the federal employee security program (Department of Justice Regu-

lations of April 29, 1953, 18 F.R. 2619, 28 CFR, 1956, Supp., Part 41) provide as follows:

DESIGNATION OF ORGANIZATIONS IN CONNECTION WITH THE FEDERAL EMPLOYEE SECURITY PROGRAM

By virtue of the authority vested in the Attorney General by section 22 of Title 5 of the United States Code, and by Executive Order No. 9835 of March 21, 1947, and Executive Order No. 10450 of April 27, 1953, I hereby prescribe the following rules of procedure with respect to notice, hearing, and designation of organizations in connection with the Federal employee security program:

Sec.

41.1 Notice to and by organizations
41.2 Statement and interrogatories by Attorney General
41.3 Reply by organization
41.4 Request for hearing
41.5 Notice of hearing
41.6 Default
41.7 Hearing board or officer
41.8 Hearing
41.9 Recording of testimony
41.10 Determination

AUTHORITY: §§41.1 to 41.11 issued under R.S. 161; 5 U.S.C. 22, E.O. 9835, Mar. 21, 1947, 12 F.R. 1935; 3 CFR, 1947 Supp.; E.O. 10450, Apr. 27, 1953, [18] F.R. 2489 [3 CFR, 1953 Supp.].

SECTION 41.1 *Notice to and by organizations.*—(a) Within ten days after the effective date of Executive Order No. 10450 of April 27, 1953, each organization which has been designated by the Attorney General pursuant to Paragraph 3 of Part III of Executive Order No. 9835 of March 21, 1947, may file with the Attorney General, Department of Justice, Washington, D.C., a written notice that it contests such designation. Failure to file a notice of contest within such period shall be deemed an acquiescence in such designation.

(b) Whenever the Attorney General after appropriate investigation proposes to designate an organization

pursuant to Executive Order No. 9835 or Executive Order No. 10450, or both, notice of such proposed designation shall be sent by registered mail to such organization at its last known address. If the registered notice is delivered, the organization, within ten days following its receipt or ten days following the effective date of Executive Order No. 10450, whichever shall be later, may file with the Attorney General, Department of Justice, Washington, D.C., a written notice that it desires to contest such designation. If the notice of proposed designation is not delivered and is returned by the Post Office Department, the Attorney General shall cause such notice to be published in the FEDERAL REGISTER, supplemented by such additional notice as the Attorney General may deem appropriate. Within thirty days following such publication in the FEDERAL REGISTER, such organization may file with the Attorney General, Department of Justice, Washington, D.C., a written notice that it desires to contest such designation. Failure to file a notice of contest within such period shall be deemed an acquiescence in such proposed action, and the Attorney General may thereupon after appropriate determination designate such organization and publish such designation in the FEDERAL REGISTER.

(c) The notice of contest provided in this part shall be signed by the executive officers (or persons performing the ordinary and usual duties of executive officers) of the organization which desires to contest such designation or proposed designation.

SECTION 41.2 *Statement and interrogatories by Attorney General.*—Within sixty days following receipt of a notice of contest, the Attorney General shall cause to be forwarded to the organization by registered mail a statement of the grounds upon which the designation was or is proposed to be made and written interrogatories with respect thereto. In the case of organizations designated pursuant to Paragraph 3, Part III of Executive Order No. 9835, such statement may include information obtained since the designation.

SECTION 41.3 *Reply by organization.*—The organization, within sixty days following receipt of such statement

and interrogatories, may file a verified reply which shall be signed by the executive officers (or persons performing the ordinary and usual duties of executive officers) of such organization. The reply shall answer each interrogatory completely and with particularity and shall be limited to statements of fact. The organization may also submit supporting affidavits with its reply. Failure to answer any interrogatory or any part thereof shall be deemed an admission of the truth of the facts to which such interrogatory or part thereof refers. The submission of an evasive reply to any interrogatory or any part thereof shall likewise be deemed an admission of the facts to which such interrogatory or part thereof refers. Failure of the organization to file a reply within the sixty days provided therefor shall constitute an acquiescence in designation.

SECTION 41.4 *Request for hearing.*—Any organization filing a reply as provided in this part may accompany its reply with a written request for a hearing. In the absence of such request, the Attorney General shall determine the matter on the basis of the information available to him and the reply of such organization.

SECTION 41.5 *Notice of hearing.*—Upon receipt of a request as provided in Section 41.4, the Attorney General will set a date and fix a place for hearing and notify the organization thereof by registered mail.

SECTION 41.6 *Default.*—When an organization declines or fails to appear at any scheduled hearing, the Attorney General shall without further proceedings determine the matter on the basis of the information available to him and the reply of the organization.

SECTION 41.7 *Hearing board or officer.*—For the purpose of conducting any hearing as provided in this part the Attorney General shall assign such officer or board as he shall deem necessary.

SECTION 41.8 *Hearing.*—(a) If upon the basis of the statement, interrogatories, reply and affidavits (if any) submitted as provided in this part it appears to the board or hearing officer that a determination may appropriately

be made without the taking of evidence, the proceeding may be conducted without the taking of such evidence.

(b) The Attorney General, at his election, may rely upon the statement of grounds upon which the designation was or is proposed to be made, or may introduce evidence in support thereof or supplemental thereto, or in rebuttal of any evidence received on behalf of the organization.

(c) Hearings before a board or officer shall be informal and shall be conducted in an orderly and impartial manner.

(d) An organization shall be entitled to appear by counsel or other representative of its own choice.

(e) Testimony shall be given under oath or affirmation.

(f) The ordinary rules of evidence need not be adhered to at the hearings but reasonable bounds shall be maintained as to relevancy, competency and materiality. Both the Attorney General and the organization may introduce such evidence as the board or officer may deem proper in the particular case. In the discretion of the board or officer, the affidavit of any witness may by received in lieu of his oral testimony.

(g) Whenever, in the judgment of the board or officer, the proposed testimony of any witness appears to be irrelevant, immaterial, cumulative, or repetitious, the board or officer may refuse to receive such testimony.

(h) All objections to the admission or exclusion of evidence or other rulings of the board or officer shall be limited to a concise statement of the reasons therefor and shall be made part of the record. Argument upon such objections may be limited in the discretion of the board or officer.

(i) The board or officer shall be authorized to receive as evidence on behalf of the Attorney General information or documentary material, in summary form or otherwise, without requiring disclosure of classified security information or the identity of confidential informants.

(j) Witnesses testifying before the officer or board shall be subject to cross-examination provided that no witness

on behalf of the Government shall be required to disclose classified security information or the identity of confidential informants.

(k) If in the course of a hearing any witness or other participant is guilty of misbehavior which obstructs the hearing, such person may be excluded from further participation in the hearing.

SECTION 41.9 *Recording of testimony.*—The testimony and proceedings at the hearing shall be recorded and transcribed by a person or persons designated by the Attorney General and made a part of the record. The organization, by its counsel or authorized representative, shall be entitled to inspect the transcript, and, upon request and at its cost, shall be furnished a copy thereof.

SECTION 41.10 *Determination.*—Within a reasonable time following completion of any proceeding hereunder, the Attorney General shall make a determination on the record which shall include the statement of the grounds, interrogatories, replies to the interrogatories, affidavits, and testimony elicited at the hearing and other documents and papers filed in the proceeding, and shall notify the organization of the determination by registered mail. In making his determination the Attorney General shall take into consideration any handicap imposed upon an organization by the non-disclosure to it of classified security information or the identity of confidential informants and by reason of the lack of opportunity to cross-examine confidential informants.

SECTION 41.11 *Previous designations not affected.*—The promulgation of the rules of procedure contained in this part shall not be deemed a revocation of any designation made by the Attorney General pursuant to Paragraph 3, Part III of Executive Order No. 9835, but each such designation shall continue in effect unless the administrative process herein provided is invoked by the organization affected and upon completion thereof a contrary determination is made by the Attorney General as to such organization.